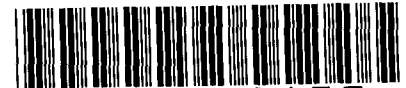


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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

IN THE MATTER OF THE APPLICATION OF
MONTEZUMA RIMROCK WATER COMPANY
LLC FOR AN EMERGENCY RATE INCREASE.

DOCKET NO. W-04254A-11-0296

PROCEDURAL ORDER

BY THE COMMISSION:

On July 25, 2011, Montezuma Rimrock Water Company LLC ("Montezuma Rimrock") filed with the Arizona Corporation Commission ("Commission") an application for an emergency rate increase, requesting that Montezuma Rimrock be authorized to charge each of its customers a monthly surcharge of \$15.64, which was designed to increase Montezuma Rimrock's annual revenues by \$37,536, thereby making Montezuma Rimrock eligible to obtain a loan of \$165,000 from a private lending institution to fund construction and installation of an arsenic treatment system. The water from Montezuma Rimrock's system currently exceeds the maximum contaminant level ("MCL") for arsenic established by the United States Environmental Protection Agency ("EPA") and enforced by the Arizona Department of Environmental Quality ("ADEQ"). ADEQ, through Amendment #1 to Consent Order in Docket No. DW-36-10, has provided Montezuma Rimrock a deadline of April 7, 2012, to complete construction of the approved arsenic treatment system and to submit an administratively complete application for an Approval of Construction for the arsenic treatment system.

Since that time, in this docket, John E. Dougherty has been granted intervention; a Staff Report has been issued recommending denial of Montezuma Rimrock's application; three procedural conferences have been held; an evidentiary hearing on September 22, 2011, has been permitted to proceed only for public comment and a procedural discussion; filing requirements have been established for all parties; and the evidentiary portion of the hearing has been scheduled to commence

1 on November 10, 2011.¹

2 On September 29, 2011, Montezuma Rimrock filed a Motion to Withdraw Application for
3 Emergency Rate Increase ("Motion to Withdraw"), stating that Montezuma Rimrock "has found a way
4 to resolve its arsenic problem without incurring the expense of constructing an arsenic treatment
5 facility" and that it "is therefore relieved of the need to obtain financing and an emergency rate
6 increase." Montezuma Rimrock requested leave to withdraw its application and that the requirements
7 in the Procedural Order of September 23, 2011, be vacated.

8 On October 3, 2011, Mr. Dougherty filed a Motion to Deny Company's Motion to Withdraw
9 Emergency Rate Application ("Motion to Deny"). Mr. Dougherty characterized Montezuma
10 Rimrock's Motion to Withdraw as a "gaming tactic" designed to prevent further scrutiny of
11 Montezuma Rimrock's finances through discovery. Mr. Dougherty asserted that Montezuma
12 Rimrock's financial condition has a direct bearing on how and when it will comply with the arsenic
13 MCL and moved the Commission to deny the Motion to Withdraw and keep in place the requirements
14 of the September 23, 2011, Procedural Order, including the evidentiary hearing scheduled for
15 November 10, 2011.

16 On October 6, 2011, Montezuma Rimrock filed a Response to Motion for Evidentiary Hearing,
17 obviously intended for another pending docket, but stating that Montezuma Rimrock is working to
18 formalize a lease of arsenic treatment plant so that it can comply with the arsenic MCL by the deadline
19 established by ADEQ. Montezuma Rimrock stated that the details concerning the lease agreement are
20 not presently available, but that it will disclose the details promptly as they become available.
21 Montezuma Rimrock stated that there is no need or reason for an evidentiary hearing to consider the
22 issues raised by its Motion to Withdraw.

23 The Commission's Utilities Division ("Staff") has not filed a response to the Motion to
24 Withdraw or to Mr. Dougherty's Motion to Deny.

25 Montezuma Rimrock no longer desires approval of an emergency interim rate increase and has
26 requested leave to withdraw its application filed herein. Because this case was initiated by
27

28 ¹ For a more complete recitation of events, see the prior Procedural Orders issued in this docket.

Montezuma Rimrock's application, the approval of which both Mr. Dougherty and Staff have opposed, and Montezuma Rimrock now desires to withdraw that application, there is no compelling reason to adjudicate the merits of the application.²

IT IS THEREFORE ORDERED that Montezuma Rimrock's **Motion to Withdraw** is hereby granted.

IT IS FURTHER ORDERED that Mr. Dougherty's **Motion to Deny** is hereby denied.

IT IS FURTHER ORDERED that the **evidentiary hearing** scheduled in this matter for November 10, 2011, at 9:30 a.m., is hereby vacated.

IT IS FURTHER ORDERED that the **requirements of the Procedural Order** issued on September 23, 2011, are hereby vacated.

IT IS FURTHER ORDERED that **Docket No. W-04254A-11-0296** is hereby closed.

DATED this 12th day of October, 2011.


SARAH N. HARPRING
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered and e-mailed this 12th day of October, 2011, to:

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Water Company LLC

² The parties are reminded that the parties are still involved in two other pending dockets in which Montezuma Rimrock's financial condition is at issue.

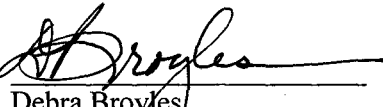
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